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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,007	10/17/2000	Harry W. Morris	06975-058001 / Ad Serving	1832
26171	7590	05/31/2006		EXAMINER
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			TIV, BACKHEAN	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

88

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/690,007	MORRIS ET AL.
	Examiner	Art Unit
	Backhean Tiv	2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 3/28/06.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-28,55-57 and 64-74 is/are pending in the application.  
 4a) Of the above claim(s) 29-54 and 58-63 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-28,55-57 and 64-74 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***Detailed Action***

Claims 1-28, 55-57,64-74 are pending in this application. Claims 29-54, 58-63 have been cancelled. This is a response to the Amendment/Remarks filed on 3/28/06.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28, 55-57, and 64-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,108,637 issued to Blumenau in view of U.S. Patent Number 6,119,098 issued to Guyot et al. (Guyot) in further view of US Patent 6,014,502 issued to Moraes.

As per claim 1,55, Blumenau disclosed a method of presenting advertising to viewers in a computer network environment, the method comprising: monitoring a viewer's interactions with an associated computer system; and determining an amount of time to be used in later displaying advertisements on the viewer's associated computer system based on the viewer's monitored interactions (Title, Abstract, column 7 lines 58-65, column 13 lines 51-58, column 14 lines 7-19).

Blumenau taught the invention substantially as claimed, however, Blumenau did not expressly teach a method based on the determined amount of time, varying an amount of display time for which a later displayed advertisement is to be displayed on

the viewer's associated computer system and storing click-through information for the advertisements; and sending the click-through information to a host computer.

Blumenau suggested exploration of art and/or provided a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information (column 18 lines 38-56, column 19 lines 2-11, column 20 lines 23-36).

Guyot disclosed a method for targeting and distributing advertisement having steps of monitoring the viewer's interaction on the viewer's associated computer and based on the determined interaction information, schedule the display timing of advertisements on the viewer's computer for the later advertisement to be displayed (Title, column 2 lines 9-20, column 5 lines 6-18) and storing click-through information for the advertisements (Guyot, column 3 lines 55-65, column 4 lines 16-23); and sending the click-through information to a host computer (Guyot, column 4 lines 16-23, column 6 lines 51-63).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of Blumenau with the teachings of Guyot to include a step of adjusting timing in order to effectively present the advertisement to users (column 7 lines 19-47) since when the user is performing other activities on the computer, the probability of viewing an advertisement is relatively low (Guyot, column 1 lines 34-43).

The combination of Blumenau and Guyot taught the invention substantially as claimed. However, the combination of Blumenau and Guyot did not expressly varying an amount of display time (duration or length of advertisement display time).

Moraes teaches varying an amount of display time (col. 19, lines 9-col. 20, lines 56).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of combined method of Blumenau and Guyot with the teachings of Moraes to include a step of varying the length/duration of the later advertisement based on viewer's interaction in order to effectively present the advertisement to viewers (Blumenau, column 7 lines 19-47).

As per claim 2, a method further comprising adjusting an ad expiration tuning parameter configured to set the quantity of time for which an advertisement is available for display (Guyot, column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6). Motivation to combine set forth in claim 1.

As per claim 3, a method wherein further comprising adjusting a maximum display count configured to set a maximum number of times an advertisement may be displayed to a user viewing a batch of ads (Guyot, column 2 lines 9-13, column 4 lines 34-43, column 7 lines 1-6). Motivation to combine set forth in claim 1.

As per claim 4, a method wherein varying the amount of display time for which the later displayed advertisement is displayed comprises adjusting a minimum display time configured to set a minimum amount of time that the later displayed advertisement may be displayed before another advertisement is displayed (Guyot, column 2 lines 9-

13, column 4 lines 34-67; Moraes, col.19, lines 9-col.20, lines 56). Motivation to combine set forth in claim 1.

As per claim 5, a method wherein further comprising adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement (Guyot , column 5 lines 6-17, column 7 lines 49-56). Motivation to combine set forth in claim 1.

As per claim 6, a method wherein further comprising adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement (Guyot, column 5 lines 6- 17, column 7 lines 49-56). Motivation to combine set forth in claim 1.

As per claim 7, a method wherein further comprising adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle (Guyot, column 5 lines 6- 17, column 7 lines 49-67). Motivation to combine set forth in claim 1.

As per claim 8, a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a use of a computer mouse (Guyot, Abstract, column 2 lines 9-21, column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 9, a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a use of a computer keyboard (Guyot, Abstract, column 2 lines 9-21, column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 10, a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring the activity of any input devices connected to the subscriber system [an auditory signal such as the viewer's voice provided through a microphone] (Guyot, column 7 lines 63-67, column 8 lines 1-1-4).

Motivation to combine set forth in claim 1.

As per claim 11, a method wherein the auditory signal is the viewer's voice (Guyot, column 7 lines 63-67, column 8 lines 1-1-4). Motivation to combine set forth in claim 1.

As per claim 12, a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a maximization and a minimization status of a screen displaying advertising (Guyot, column 2 lines 19-13, column 5 lines 6-11, lines 45-61). Motivation to combine set forth in claim 1.

As per claim 13, a method wherein monitoring a viewers interactions with an associated computer system comprises monitoring a viewers use of a device that sends an input, or causes an input to be sent, to the associated computer system (Blumenau, column 17 lines 24-35).

As per claim 14, a method wherein the timing of displayed advertisements on a screen displaying advertising is configured to not switch between advertisements if the screen displaying advertisements is minimized or occluded (Guyot, column 5 lines 6-11, lines 45-61, column 12 lines 46-56). Motivation to combine set forth in claim 1.

As per claim 64, a method wherein monitoring wherein monitoring the viewer's interactions with the associated computer system includes continually monitoring the

viewer's interactions with the associated computer program (Blumenau, column 10 line 65-column 14, column 11 lines 18-29, column 16 lines 13-24).

As per claim 65, a method wherein monitoring the viewer's interactions with the associated computer system includes monitoring the viewer's interactions with the associated computer system that are unrelated to a manual adjustment of the timing of the displayed advertisements (Blumenau, column 17 lines 24-35, column 18 lines 38-49, column 20 lines 23-36).

As per claim 66, a method wherein adjusting the timing of the later displayed advertisements includes varying lengths of time during which the advertisements are displayed on an advertisements -by- advertisements basis (Guyot, Title, column 2 lines 9-20, column 5 lines 6-18). Motivation to combine set forth in claim 1.

Regarding claims 15-28 and 67-69, the computer program stored on a computer-readable medium corresponds directly to the method of claim 1-14 and 64-66, and thus these claims are rejected using the same rationale. Motivation to combine set forth in claim 1.

As per claim 56, a method further comprising varying the tuning parameters downloaded to the user's computer; and utilizing a correlation technique to determine a correlation between the tuning parameters downloaded to the user's computer and the click-through rate of the user (Blumenau, column 14 lines 7-19, column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

As per claim 57, a method further comprising setting another set of tuning parameters based on the correlation between the tuning parameters and the user's

click-through rate (Blumenau, column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

As per claim 70, a method wherein the tuning parameters are configured to vary lengths of time during which the advertisements are displayed on an advertisement-by-advertisement basis (Guyot, Title, column 2 lines 9-20, column 5 lines 6-18). Motivation to combine set forth in claim 1.

As per claim 71,73, wherein monitoring a viewer's interactions comprises monitoring a viewer's interactions other than interactions indicating an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system(Moraes, col.19, line 9-col.20, line 56). Motivation to combine set forth in claim 1.

As per claim 72, 74, monitoring a viewer's interactions comprises monitoring a viewer's interactions with an application operating on the viewer's associated computer system, the application being other than an application for indicating an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system(Moraes, col.19, line 9-col.20, line 56). Motivation to combine set forth in claim 1.

### ***Response to Arguments***

Applicant's arguments filed 3/28/06 have been fully considered but they are not persuasive. The applicant argues in substance:

a) Blumenau in view of Guyot in further view of Moraes does not teach, determining an amount of time to be used in later displaying advertisements on a

viewer's associated computer system based on the viewer's monitored interactions, and based on the determined amount of time, varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system.

In reply to a); In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant argues, Remarks pages 1-2, only the Moraes reference for not teaching determining an amount of time to be used in later displaying advertisements on a viewer's associated computer system based on the viewer's monitored interactions, and based on the determined amount of time, varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system, however, the applicant has not considered Blumenau and Guyot.

Blumenau disclosed a method of presenting advertising to viewers in a computer network environment, the method comprising: monitoring a viewer's interactions with an associated computer system; and determining an amount of time to be used in later displaying advertisements on the viewer's associated computer system based on the viewer's monitored interactions (Title, Abstract, column 7 lines 58-65, column 13 lines 51-58, column 14 lines 7-19).

Blumenau taught the invention substantially as claimed, however, Blumenau did not expressly teach a method based on the determined amount of time, varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system and storing click-through information for the advertisements; and sending the click-through information to a host computer.

Blumenau suggested exploration of art and/or provided a reason to modify the method of presenting advertisement to include additional features such as varying an amount of display time for which a later displayed advertisement is to be displayed on the viewer's associated computer system based upon review and analysis of monitoring information (column 18 lines 38-56, column 19 lines 2-11, column 20 lines 23-36).

Guyot disclosed a method for targeting and distributing advertisement having steps of monitoring the viewer's interaction on the viewer's associated computer and based on the determined interaction information, schedule the display timing of advertisements on the viewer's computer for the later advertisement to be displayed (Title, column 2 lines 9-20, column 5 lines 6-18) and storing click-through information for the advertisements (Guyot, column 3 lines 55-65, column 4 lines 16-23); and sending the click-through information to a host computer (Guyot, column 4 lines 16-23, column 6 lines 51-63).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of Blumenau with the teachings of Guyot to include a step of adjusting timing in order to effectively present the advertisement to users (column 7 lines 19-47) since when the user is performing

other activities on the computer, the probability of viewing an advertisement is relatively low (Guyot, column 1 lines 34-43).

The combination of Blumenau and Guyot taught the invention substantially as claimed. However, the combination of Blumenau and Guyot did not expressly varying an amount of display time (duration or length of advertisement display time).

Moraes teaches varying an amount of display time (col. 19, lines 9-col. 20, lines 56). Moraes teaches that banner advertisement are displayed to the user and the client computer records information such as the identity of the showcase advertisement, the time of the display to the user and the duration of the display. Moraes clearly suggest that the advertisement display time varies since the client computer records information of the “duration of the display” and the “time of the display to the user”.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the advertisement method of combined method of Blumenau and Guyot with the teachings of Moraes to include a step of varying the length/duration of the later advertisement based on viewer's interaction in order to effectively present the advertisement to viewers (Blumenau, column 7 lines 19-47).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Backhean Tiv  
2151  
6/26/06

*Khanh Dinh*  
Primary Examiner